

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
	:	
v.	:	CRIMINAL NO. 1:CR-02-011-01
	:	
ERIC CRAFT,	:	(Judge Caldwell)
	:	
Defendant	:	

M E M O R A N D U M

The pro se defendant, Eric Craft, pled guilty to an information charging him with a violation of 18 U.S.C. § 924(j), causing the death of another by use of a gun during a drug-trafficking offense. He has filed three motions. All three are essentially challenges to his conviction and sentence. In the first (Doc. 401), Defendant asserts that: (1) section 924(j) fails the necessary interstate-commerce requirement and seeks to regulate conduct reserved to the states; (2) Congress cannot specify what sentence a court can impose; and (3) the probation office as part of the executive branch also cannot instruct the court on what sentence to impose. In the second (Doc. 402), Petitioner asserts section 924(j) violates the commerce clause. In the third (Doc. 403), Petitioner asserts Congress had no commerce-clause power to enact section 924(j).

We will deny the motions. Petitioner invokes Article III of the Constitution numerous times, but his motions challenge his conviction and sentence, and so must be presented under 28 U.S.C. § 2255. See *Taylor v. Holt*, 309 F. App'x 591, 594 (3d Cir. 2009)(nonprecedential). However, Defendant cannot rely on section 2255 because he has already had a section 2255 motion adjudicated. Section 2555's gatekeeping

provision, 28 U.S.C. § 2255(h), deprives us of jurisdiction to consider a second or successive 2255 motion, unless a defendant has first obtained a certificate from the court of appeals authorizing him to do so. *See Pelullo v. United States*, 352 F. App'x 620, 625 (3d Cir. 2009)(nonprecedential).

Doc. 402 and 403 are also deficient because they are in violation of the order of May 7, 2013, requiring Defendant to first file a motion seeking permission to file a motion that seeks to vacate his conviction or sentence.

We will issue an appropriate order.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge

Date: November 4, 2014